

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

JEREMY RAYMOND WHITSON
Plaintiff,

v.

CASSIE WINFREY, et al.
Defendants.

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No. 3:16-2268
Judge Campbell

M E M O R A N D U M

The plaintiff, proceeding *pro se*, is an inmate at the Robertson County Detention Center in Springfield, Tennessee. He brings this action pursuant to 42 U.S.C. § 1983 against Cassie Winfrey, a former nurse at the Detention Center; and Southern Health Partners, her employer; seeking damages.

On February 28, 2016, the plaintiff was taken to the infirmary for what appeared to be a spider bite. The nurse, Cassie Winfrey, proceeded to cut the area of the spider bite with a scalpel. Apparently, the defendant did not follow protocol and she was terminated from her position the next day. The plaintiff claims that he "was injured by negligence and caused undue pain without proper care given."

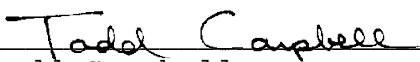
To establish a claim for § 1983 relief, the plaintiff must plead and prove that the defendants, while acting under color of

state law, deprived him of a right guaranteed by the Constitution or laws of the United States. Parratt v. Taylor, 101 S.Ct. 1908 (1981).

The plaintiff claims that his injury was a result of the defendants' negligence. Negligent conduct, however, is not actionable under § 1983 because it does not rise to the level of a constitutional deprivation. Estelle v. Gamble, 97 S.Ct. 285 (1976). This is true with respect to negligence claims arising under both the Eighth and Fourteenth Amendments. Whitley v. Albers, 106 S.Ct. 1078, 1084 (1986)(Eighth Amendment); Daniels v. Williams, 106 S.Ct. 662, 666 (1986)(Fourteenth Amendment). Thus, the plaintiff has failed to allege conduct that violates the Constitution.

In the absence of a constitutional violation, the plaintiff is unable to prove every element of his cause of action. Therefore, the plaintiff has failed to state a claim upon which § 1983 relief can be granted. Under such circumstances, the Court is obliged to dismiss the instant action *sua sponte*. 28 U.S.C. § 1915(e)(2).

An appropriate order will be entered.



Todd Campbell
United States District Judge